

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RECEIVED  
SDNY FPD DE OFFICE  
2019 DEC -5 AM 10:00

Robert Derek Lurch Jr.

**19 CV 11254**

CV

Write the full name of each plaintiff.

(Include case number if one has been assigned)

-against-

**COMPLAINT**

- See Defendant List -

Do you want a jury trial?

☒ Yes ☐ No

Write the full name of each defendant. If you need more space, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section II.

**NOTICE**

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

## I. BASIS FOR JURISDICTION

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation, and the amount in controversy is more than \$75,000, is a diversity case. In a diversity case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal-court jurisdiction in your case?

☒ Federal Question

☐ Diversity of Citizenship

### A. If you checked Federal Question

Which of your federal constitutional or federal statutory rights have been violated?

my Fourth and Fourteenth amendment

### B. If you checked Diversity of Citizenship

#### 1. Citizenship of the parties

Of what State is each party a citizen?

The plaintiff, \_\_\_\_\_, is a citizen of the State of  
(Plaintiff's name)

\_\_\_\_\_  
(State in which the person resides and intends to remain.)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of

\_\_\_\_\_  
If more than one plaintiff is named in the complaint, attach additional pages providing information for each additional plaintiff.

If the defendant is an individual:

The defendant, \_\_\_\_\_, is a citizen of the State of  
(Defendant's name)

\_\_\_\_\_  
or, if not lawfully admitted for permanent residence in the United States, a citizen or  
subject of the foreign state of

If the defendant is a corporation:

The defendant, \_\_\_\_\_, is incorporated under the laws of  
the State of \_\_\_\_\_

and has its principal place of business in the State of \_\_\_\_\_

or is incorporated under the laws of (foreign state) \_\_\_\_\_

and has its principal place of business in \_\_\_\_\_

If more than one defendant is named in the complaint, attach additional pages providing  
information for each additional defendant.

## II. PARTIES

### A. Plaintiff Information

Provide the following information for each plaintiff named in the complaint. Attach additional  
pages if needed.

<u>Robert</u>	<u>D</u>	<u>Lurch</u>
First Name	Middle Initial	Last Name
<u>PO Box 540807</u>		
Street Address		
<u>Bronx</u>	<u>NY</u>	<u>10454</u>
County, City	State	Zip Code
<u></u>		<u></u>
Telephone Number		Email Address (if available)

**B. Defendant Information**

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. Attach additional pages if needed.

Defendant 1:

- See Defendant List -

First Name	Last Name
Current Job Title (or other identifying information)	
Current Work Address (or other address where defendant may be served)	
County, City	State      Zip Code

Defendant 2:

First Name	Last Name
Current Job Title (or other identifying information)	
Current Work Address (or other address where defendant may be served)	
County, City	State      Zip Code

Defendant 3:

First Name	Last Name
Current Job Title (or other identifying information)	
Current Work Address (or other address where defendant may be served)	
County, City	State      Zip Code

# **Defendant list**

**1.The city of New York**

**2.Unkown ems workers**

**3.Unkown Nypd officers**

**4.Unkwown Esu officers**

Defendant 4:

First Name

Last Name

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

County, City

State

Zip Code

### III. STATEMENT OF CLAIM

Place(s) of occurrence: 50 Broadway New York, NY

Date(s) of occurrence: NOV. 25, 2019 1 PM to 7 PM

#### FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and what each defendant personally did or failed to do that harmed you. Attach additional pages if needed.

-see Attached-

## **Facts of the incident**

**On Nov.25,2019 I arrived at my job program that I'm currently employed at. On this day in particular, I was at my employer's headquarters due to being suspended for missing work at my job site on the day I was scheduled to work.**

**I got to 50 Broadway where this agency is located at around 11 am. I had a meeting with my job coach at this agency because of my failure to report to my assign job site when I was scheduled to. I waited in the waiting area of this agency for an hour because my meeting wasn't scheduled until 12pm.**

**I quietly waited during this time in the waiting area of this agency and I did not bother anyone. I was not physically/verbally threatening to the staff or any participants of the program during time or at anytime during my visit to this agency. They actually on this day had pizza for the participants and I was offered this light meal while I waited for my 12-o clock meeting with my job coach concerning my suspension.**

**When 12 pm came around I was handling other matters on the phone and I inform my job coach ill be with him in five minutes. After I ended my call, I met with my job coach.**

He asked me the reason for my absence and I explained to him that I'm having family issues. He asked me to elaborate and I explain to him the situation. He said it sounds like a matter he should discuss with the social worker and he exited the room.

When he returned, he came back with a social worker that I previously worked with. The social worker came in and started talking about the family issues I discussed with the job coach. I quickly told her that I was just having a man to man conversation with my job coach about the females that I'm involved with and I'm not discussing my issues with her.

Because I may have came off a little harsh, I told her no offense, after I informed her I'm not discussing any issue I told to my job coach in confidence and without meaning any harm. She told me she understood and told me she wants to speak about my housing situation. I dismissed her on that topic too because I have been working for this employer for 5 months and she has not helped me with housing so I felt the impending conversation to be waste of time.

She immediately got offended and told me that she is either calling 911 or I can choose to walk to the hospital escorted by her and my job coach. I told her I'm not walking to any hospital and I want to know the reason she thinks the police are going to seize for the purposes of hospitalization. I informed her I been hospitalized before and no behavior was



exhibited or any words was expressed by me today that would give anyone the authority to do so.

Mrs.Poolt answered my question by stating you know because of what you said. However, when I asked her what I said, she failed to repeat the substance of the statement she would later use as the basis of her complaint when she reported to the police via 911 that I'm a danger to myself or others.

When police arrived, I was seated and I explain to them that I'm not a danger to myself or others and I don't know what was said but you can ask the 911 caller if they felt in fear for their life anytime during my interaction with them.

Mrs.poolt and my job coach informed the police "no" when they asked was they in fear for their life by my behavior that was exhibited at the agency. Yet, I was still seized. I told the police according to law concerning seizing a citizen for the purpose of hospitalization, I have to meet certain prerequisites before I can be seized lawfully.

They agreed and told me that they're not arresting me but if ems say so, they will and that's why I'm still waiting but I'm not free to leave because I'm waiting for Ems.

When ems arrived, I informed them I'm not suicidal, I did not attempt suicide, and I did not do anything physically/verbally threatening to anybody in the vicinity or over the phone.

I then look at the female ems worker and the police informing them I'm leaving because they can't hold me there without probable cause that I committed a crime or that I'm in need of immediate hospitalization according to the fourth amendment.

The female ems worker then said that is how it supposed to go but I still have to consult with my partner. She returned, telling the police to handcuff me. I inquired what requirement of the law did I satisfy to justify this seizure and she said the 911 call.

I informed her that the information on the 911 is most likely false and she is still required by law to make her own decision based off my present behavior and answers to the question that was designed to elicit from a person if they are a harm to themselves or others. She told me the 911 call is sufficient enough according to her partner and she told the police to proceed in arresting me for the purposes of hospitalization.

I told her that you know this is illegal and I'm not consenting for anybody to touch me. The officers then looked at her grabbing me violently trying to place handcuffs on me. I resisted by keeping my wrist separated, the arrest was unlawful.

When their approach didn't work, these officers slammed me to the ground. After a brief struggled ensued, I was let back up by these police officers and they called esu to assist with the arrest.

When esu arrived; I was slammed, choked and everything else under the sun they could possibly think of to be able to get the handcuffs on me. This occurred for over 20 minutes and the encounter that started on the 18<sup>th</sup> floor( where this agency is located ), ended up with the plaintiff being forcefully escorted by officers/esu/ems tied up on a hospital gurney( with a breathing mask that wasn't placed on him properly causing him difficulty in breathing) being placed in an ambulance unwilling and unlawfully 18 floors down from where the plaintiff had a meeting with his job coach.

The plaintiff clothes was in such disarray by nypd and esu methods to handcuff the plaintiff during seizure process that the plaintiff was brought down and taken outside forcefully by officers while his boxers was embarrassingly exposed and whatever else.

When I got to the hospital the doctor he stated that I was placed in custody because I told CEO staff that I wanted to kill my baby mother and son. When I informed the doctor I didn't say that, the doctor inquired further as to why that couldn't be determine by ems? He asked was I rowdy? I stated no. He asked did I answer the danger to myself or others questions properly, I stated yes.

He then stated that he is not admitting me and stated that the ems made a mistake by telling police to seize me for hospitalization and the police is wrong for listening to them.

I was released but Bellevue employees denied to examine me for injuries associated with my arrest even though I came in injured. So, I later went to Woodhull the next morning when pain from the incident started to bother me. I was seen by internal affairs at Woodhull in regards to the incident then I was discharged.

## **Failure to protect**

**The nypd and esu officers failed to protect the plaintiff's constitutional right of being seized without probable cause when they allowed the ems defendants to direct them to seized the plaintiff under mhl 9.41 without the appropriate probable cause required to exist before a citizen can lawfully be seized for hospitalization under that law.**

**Furthermore, these defendants were aware that the information the ems workers used to justify a seizure pursuant to mhl 9.41 was insuccificent and that if they complied with the medical workers instructions they would be violating the plaintiffs right to be free from being seized without probable cause.**

**Because of this these defendants failed to protect the plaintiff and his rights were violated.**

**Parties liable: The city of new York,Unkown  
Nypd and Esu officers**

# False arrest claim against Nypd

The Nypd officer that encountered me on Nov.25,2019 knew that based off the requirements of the Mental health hygiene law 9.41(the law that gives them authority to seize a citizen for the purposes of hospitalization):

Any peace officer, when acting pursuant to his special duties, or police officer who is a member of the state police or of an authorized police department or force or of a sheriff's department may take into custody any person who appears to be mentally ill and is conducting himself in a manner which is likely to result in serious harm to himself or others.

"Likelihood to result in serious harm" shall mean (1) substantial risk of physical harm to himself as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that he is dangerous to himself, or (2) a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm.

Such officer may direct the removal of such person or remove him to any hospital specified in subdivision (a) of section 9.39 or, pending his examination or admission to any such hospital, temporarily detain any such person in another safe and comfortable place, in which event, such officer shall immediately notify the director of community services or, if



there be none, the health officer of the city or county of such  
action.

That I did not meet the criteria to be seized that day under that law. I did not attempt suicide on that day, say I wanted to kill myself or exhibit homicidal behavior.

I even heard the ems and officers discussing that since I said I been in a psychiatric ward before that information alone is sufficient enough to justify the seizure. Which the law does not side with these defendants on their opinion.

Furthermore, without exhibiting physically threatening behavior to the staff, participants, or officers these defendants were not justified in seizing the plaintiff pursuant to the law that gives them the authority to do so. Which renders this police encounter and seizure an unlawful one!

Even if these defendants state they were justified for their actions according to the law, based off the information they were provided with from the agency, that analyzation would be wrong because a person making a threat without exhibiting behavior does not give these defendant authority to make a seizure according to the law.

Parties liable: The city of New York , Unknown  
Nypd and Esu officers

# False arrest claim against Ems

The Ems workers (a male and a female) that encountered me on Nov.25,2019 knew that based off the requirements of the Mental health hygiene law 9.41(the law that gives them authority to seize a citizen for the purposes of hospitalization):

Any peace officer, when acting pursuant to his special duties, or police officer who is a member of the state police or of an authorized police department or force or of a sheriff's department may take into custody any person who appears to be mentally ill and is conducting himself in a manner which is likely to result in serious harm to himself or others.

"Likelihood to result in serious harm" shall mean (1) substantial risk of physical harm to himself as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that he is dangerous to himself or (2) a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm.

Such officer may direct the removal of such person or remove him to any hospital specified in subdivision (a) of section 9.39 or, pending his examination or admission to any such hospital, temporarily detain any such person in another safe and comfortable place, in which event, such officer shall



immediately notify the director of community services or, if there be none, the health officer of the city or county of such action.

That I did not meet the criteria to be seized that day under that law. I did not attempt suicide on that day, say I wanted to kill myself or exhibit homicidal behavior.

I even heard the ems and officers discussing that since I said I been in a psychiatric ward before that information alone is sufficient enough to justify the seizure. Which the law does not side with these defendants on their opinion.

Furthermore, without exhibiting physically threatening behavior to the staff, participants, or officers these defendants were not justified in seizing the plaintiff pursuant to the law that gives them the authority to do so. Which renders this police encounter and seizure an unlawful one!

Even if these defendants state they were justified for their actions according to the law, based off the information they were provided with from the agency, that analyzation would be wrong because a person making a threat without exhibiting behavior does not give these defendant authority to make a seizure according to the law.

Parties liable: EMS workers

#### INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

I suffered contusions to the back <sup>OF</sup> ~~my~~ my head, pain in all areas of my body due to the assault and painful lumps due to me being thrown around by officers on hard surfaces. I was treated at Woodhull for most of my injuries and was prescribed pain meds.

#### IV. RELIEF

State briefly what money damages or other relief you want the court to order.

IM suing each entity for compensatory damages in the amount of 5 million dollars. IM suing each individual defendant for 2 million dollars in compensatory damages and punitive damages.

**V. PLAINTIFF'S CERTIFICATION AND WARNINGS**

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

12/5/2019  
 Dated \_\_\_\_\_ Plaintiff's Signature \_\_\_\_\_  
Robert D Lurch  
 First Name Middle Initial Last Name  
PO BOX 540807  
 Street Address \_\_\_\_\_  
Bronx NY 10454  
 County, City State Zip Code  
 \_\_\_\_\_  
 Telephone Number Email Address (if available)

I have read the Pro Se (Nonprisoner) Consent to Receive Documents Electronically: \_\_\_\_\_

☐ Yes ☐ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.